

Guarding Inheritance of Orphans

Ref: *Sefer Mishpatim, Hilchot Nachalot, Chapter 11*

One must be very careful to look after them well and their inheritance must not only be protected, but all efforts made to make them profitable.

An apotropos (guardian) may have to be appointed for this.

The apotropos can be appointed by the father or the court.



Also the court, exceptionally for orphans, can appoint an upright and worldly person to invest the estate of the orphans, sharing the profit while guaranteeing the capital. (Normally the Sages do not allow such an investment as it resembles *ribit* / interest.)

If such a person cannot be found then the court orders a guardian to protect the estate of the orphans.

	Permission given to <i>apotropos</i> (guardian)	Explanation
Money belonging to orphans	✓	Entrusted to someone of standing, in presence of court, who could invest wisely (should own landed property, or have gold bars as security)
Movable property (without a functional purpose) sold for cash	✓	Will not bring income to estate
Movable property (with function) sold with the intention of storing the cash for later	×	Can bring benefit, and also cash may get lost.
Questionable decisions (e.g. whether to sell beer which may sour etc)	✓	Should do as he would if it were his own
Takes control of whole estate and does whatever he thinks is necessary with it for the benefit of the orphans	✓	
He provides orphans their food and expenses from their estate	✓	May sell items belonging to estate to provide
Hands over the estate when orphans reach majority	✓	Does not have to give an account. He should however carefully keep his own accounting
Selling fields for servants or servants for fields	×	Risky as to which is more beneficial
Enters lawsuits on behalf of orphans	×	May lose case.
Grant Canaanite servants their release (<i>Shichrur</i>)	×	They are not the guardian's property. But they can sell the slaves.
Separate <i>trumah</i> and <i>maaser</i>	✓	Because orphans cannot eat crops before they are tithed

Provide <i>mitzvot</i> with a fixed measure e.g. <i>lulav, sukah, tzitzit, shofar, Torah scroll, tefillin, mezuzot, megilah</i>	✓	Even though they are under majority
Provide <i>mitzvot</i> with no fixed measure e.g. <i>tzedakah</i>	✗	So as not to let beggars deplete their estate

One must be very careful when looking after orphans so as not to incur the wrath of Hashem, as it says in *Tehillim* 'Make a path for He who rides upon the Heavens... the Father of orphans.'